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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/752,345

01/06/2004

Luc Mainville

055189-0011

4226

20572

7590

01/13/2006

GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/752,345

Applicant(s)

MAINVILLE, LUC

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

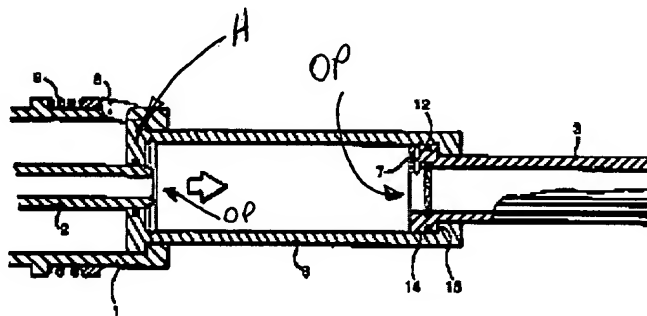
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,234,062 to GRIFFIN. GRIFFIN discloses the use of a telescopic hoist including a series of tubular sections (3,6) telescopically arranged in a tubular housing (1); wherein each tubular section (3,6) includes an annular piston head (as at 14) and (H) having an opening (OP), see below; and the hoist further includes a sealing means (12) sealing between the tubular sections (3,6) from fluid and air, column 4, lines 26-29.



GRIFFIN discloses the basic claimed device except for forming the device out of nitrided steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance perhaps a steel structure is suitable in environment for use where extremely heavy devices are hoisted.

Claims 2 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,983,778 to DAWSON. DAWSON discloses the use of a telescopic hoist including a cylindrical housing (12) series of tubular sections (14-20) each having first and second ends such that the first end includes an annular head (64-72) having a piston end with openings(94-102), and the hoist further includes a sealing means (74-82) sealing between the tubular sections (3,6) from fluid and air. GRIFFIN discloses the basic claimed device except for forming the device out of nitrided steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance perhaps a steel structure is suitable in environment for use where extremely heavy devices are hoisted.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,983,778 to DAWSON. DAWSON discloses the use of a telescopic hoist including a cylindrical housing (12) series of tubular sections (14-20) each having first and second ends such that the first end includes an annular head (64-72) having a piston end with inlet ports (94-102), and the hoist further includes a sealing means (74-82) sealing between the tubular sections (3,6) from fluid and air. The tubular sections (14-20) includes at least an outermost (14) and an inner most section (20) that allow fluid to be introduced into section (14a-18a) located between at least the outermost (14) and innermost (20) sections. GRIFFIN discloses the basic claimed device except for forming the device out of nitrided steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known

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material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance perhaps a steel structure is suitable in environment for use where extremely heavy devices are hoisted.

Response to Arguments

Applicant's arguments filed 9/28/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the hoist allowing air to enter freely and a piston head made from a material allowing semi-lubricated contact) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Regarding the applicant's argument that DAWSON does not hint to teaching a hoist having a series of telescopic tubular sections, clearly DAWSON's teachings are detailed above to show a hoist with telescoping sections.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635
01/06/05


Carl D. Friedman
Supervisory Patent Examiner
Group 3600